

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

In re: Harpole Construction, Inc., New Mexico Domestic Profit
EIN: 47-0886258,

Debtor.

No.

DEBTOR'S MOTION TO EMPLOY ATTORNEYS

The Debtor, Harpole Construction Inc., hereby requests Court approval of Debtor's employment of William F. Davis & Assoc., P.C. (William F. Davis, Esq.) ("Attorneys") to represent Debtor as its Attorneys in this bankruptcy case, in all matters and proceedings in this bankruptcy case and all other matters in which Debtor requires counsel.

In support of this Motion, Debtor states:

1. On October 2, 2015, Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code.
2. Debtor wishes to employ Attorneys as its counsel in its bankruptcy case and in all other matters in which Debtor requires counsel. The Debtor's CEO has executed the "Statement Regarding Authority to Sign and File Petition and Retain Bankruptcy Counsel," which is attached hereto as Exhibit "A". Attorneys are well qualified to represent Debtor as debtor-in-possession in this case.
3. In general, the professional services Attorneys are to render are:
 - a. To represent and to render legal advice to Debtor regarding all aspects of this bankruptcy case, including, without limitation, the continued operation of Debtor's business, meetings of creditors, claims objections, adversary proceedings, plan confirmation and all hearings before this Court;

- b. To prepare on behalf of Debtor necessary petitions, answers, motions, applications, orders, reports and other legal papers, including Debtor's plan of reorganization and disclosure statement;
- c. To assist Debtor in taking actions required to effect reorganization under Chapter 11 of the Bankruptcy Code;
- d. To perform all legal services necessary or appropriate for Debtor's continued operation; and
- e. To perform any other legal services for Debtor as deemed appropriate.

4. To the best of Debtor's knowledge, information and belief, Attorneys have no connection with Debtor, its creditors or any other party in interest or its respective attorneys, other than those connections set out in the Statement pursuant to Rules 2014 and 2016 that Attorneys filed with this Motion.

5. The Debtor desires to employ said attorneys at the hourly rate of \$325.00 for William F. Davis, Esq., \$250.00 for Andrea D. Woody, Esq., \$225.00 for Nephi D. Hardman, Esq., \$200.00 for Christopher D. Dvorak, \$105.00 for paralegal time, plus costs, expenses and applicable taxes. A copy of the retainer agreement is attached as Exhibit "B."

6. Attorneys will render statements to Debtor on a monthly basis. Debtor seeks authority from the Bankruptcy Court to pay Attorneys, prior to the Court's determination of the allowability of Attorney's compensation, on a monthly basis, for 75% of attorneys fees and 100% of reimbursable costs and applicable gross receipts tax. All fees, costs and gross receipts tax paid on a monthly basis or otherwise (including rates

charged) would be subject to ultimate approval of the Bankruptcy Court under Bankruptcy Code §§ 328, 330 and 331. The fee applications will contain a detailed statement showing services performed by Attorneys and compensation received.

7. The Debtor further requests that the approval of the employment of Attorneys be made effective as of the date of filing of this Motion.

WHEREFORE, Debtor requests that the Court enter an order authorizing the employment of Attorneys as set out above.

Respectfully submitted,



WILLIAM F. DAVIS & ASSOC., P.C.

/s/ electronically filed 10/02/15

William F. Davis, Esq.

Attorneys for Debtor

6709 Academy NE, Suite A

Albuquerque, NM 87109

PH# (505) 243-6129

FX# (505) 247-3185

I certify that on October 2, 2015,
a copy of this document was either electronically
transmitted or mailed to:

UNITED STATES TRUSTEE
PO Box 608
Albuquerque, NM 87103-0608

/s/ 10/02/15



William F. Davis, Esq.

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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

In re: Harpole Construction, Inc., New Mexico Domestic Profit
EIN: 47-0886258,

Debtor.

No.

**STATEMENT REGARDING AUTHORITY TO SIGN AND FILE PETITION
AND RETAIN BANKRUPTCY COUNSEL**

I, Jerry Harpole, Sr., declare under penalty of perjury that I am the President of Harpole Construction, Inc. (the "Corporation"), and that on October 2, 2015, the following resolution was duly adopted by the Corporation:

WHEREAS, it is in the best interest of this Corporation to file a voluntary petition in the United States Bankruptcy Court pursuant to Chapter 11 of the United States Code;

IT IS THEREFORE RESOLVED that Jerry Harpole, Sr., the President of this Corporation, is authorized and directed to execute and deliver all documents necessary to perfect the filing of a Chapter 11 voluntary bankruptcy case on behalf of the Corporation; and

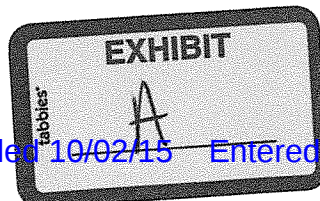
IT IS THEREFORE FURTHER RESOLVED that Jerry Harpole, Sr., the President of this Corporation, is authorized and directed to appear in all bankruptcy proceedings on behalf of this Corporation, and to otherwise do and perform all acts and deeds and to execute and deliver all necessary documents on behalf of the Corporation in connection with such bankruptcy case; and

IT IS THEREFORE FURTHER RESOLVED that Jerry Harpole, Sr., President of this Corporation, is authorized and directed to employ William F. Davis, attorney, and the law firm of William F. Davis & Assoc., P.C. to represent the Corporation in such bankruptcy case.

HARPOLE CONSTRUCTION, INC.

By: Jerry Harpole, Sr.
Jerry Harpole, Sr., President
Dated: October 2, 2015

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RETAINER AGREEMENT WITH WILLIAM F. DAVIS & ASSOC., P.C.

This retainer agreement is made on August 19, 2015, between WILLIAM F. DAVIS & ASSOC., P.C. of 6709 Academy NE, Suite A, Albuquerque, New Mexico 87109, hereinafter referred to as the Firm or Attorney, and Harpole Construction, Inc., whose address is P.O. Box 27, Farmington, NM 87499 hereinafter known as the Client.

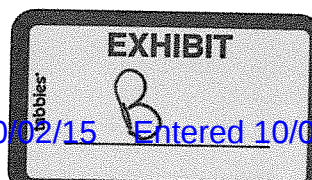
1. FIRM PERSONNEL:

You have retained the law Firm of WILLIAM F. DAVIS & ASSOC., P.C. to represent you. It is important to understand that you are represented by the Firm, not just by your initial contact with the Firm. The Firm of WILLIAM F. DAVIS & ASSOC., P.C. employs attorneys, paralegal assistants, clerical personnel, law clerks, accounting personnel and other support staff. Your initial contact with the Firm may continue to do your work. However, the Firm retains the right to assign your case to other lawyers employed by the Firm. It is the Firm's practice to assign non-professional staff to accomplish those tasks which do not require an attorney's direct input; however, all work is closely supervised by attorneys. Using non-professional staff for the less complicated portions of your case saves you money because these personnel bill at a lower rate. The Firm must balance its workload so that all clients receive prompt, efficient and competent services. If you are concerned about the attorneys and staff that have been assigned to your case, you may discuss the matter with either your initial contact or Mr. William F. Davis, the senior shareholder at any time. However, the Firm reserves the right to make the final decision as to the attorneys and non-professional staff assigned to your case.

2. NATURE OF THE WORK:

You have retained the Firm for the purpose of performing the following legal services:
(check the appropriate category)

- A. ☒ Bankruptcy filing as Debtor's attorney – Chapter 11 Reorganization
- B. ☐ Creditor Representation in Bankruptcy
- C. ☐ Plaintiff's litigation
- D. ☐ Defense of other litigation
- E. ☐ Collection matter
- F. ☐ Incorporation or corporate work
- G. ☐ Real Estate transaction



- H. ___ Post-Confirmation Chapter 13 work
- I. ___ Post-Discharge Chapter 7 work
- J. ___ Other

The Firm will determine the manner and method of representation of the client, and will exercise independent judgment concerning the course of proceedings to be undertaken. The Firm guarantees no results, and will not be liable for any loss the client suffers unless the loss occurs because of the lawyer's or Firm's negligence. Often it is impossible to tell at the beginning of our representation precisely what services will be required. The Firm may be able to give you an estimate of the work involved and the potential fees, but it is only an estimate and can change drastically because of circumstances beyond our control, or information not initially made available to us. If the representation involves entering an appearance in a Court proceeding, the Firm will be obligated to continue as counsel of record in that proceeding until completed, until you discharge the Firm, or until the Court allows the Firm to withdraw. Engaging an attorney is a highly personal experience. The services to be rendered to you are so important to your future that you must have the utmost confidence in the Firm. All communications between the client and the Firm are privileged, and the Firm cannot disclose this information to others without your permission. In return for this confidentiality, the client must be completely truthful and candid with the Firm at all times. The quality of the services we render, and the outcome of the representation can be destroyed if the client withholds any information, even apparently irrelevant information. When you are asked for information by the Firm, take special efforts to insure that your answers are truthful, correct and complete.

3. ATTORNEY'S FEES:

The fees for professional services charged by the Firm will be primarily based on the time expended on your behalf. In some cases a flat fee can be quoted where the services are of a limited or uncomplicated nature, or where the Firm has sufficient experience to be able to accurately determine the time required. If we have quoted you a flat fee, as noted below, it is only for the specific services described. You must remember that the Firm's fees not only pay for your legal services, but also compensate the Firm for not accepting employment from any other person who has a real or potential conflict or interest adverse to yours. Unless a flat fee has been quoted to you, the Firm retains the right to adjust a fee based on time expended up or down to reflect the reasonable value of the services rendered to you, due to factors such as the novelty and complexity of the legal issues involved, results achieved, the skill and experience required to render the services, extraordinary time requirements, other business the Firm must refuse because of conflicts, or other significant circumstances. The Firm policy is to achieve the desired results through settlement and negotiation, and to avoid litigation if possible. However,

we do not control the other side of the dispute, and the actions taken by your opponent can significantly affect the amount of fees you will be required to pay.

Although the fees charged may seem high as an hourly rate, remember that the Firm has the normal expenses of any business, such as rent, insurance, staff salaries, taxes, utilities and supplies. In addition, a law Firm incurs significant expense in maintaining a law library, keeping the lawyers' skills current through ongoing legal education and providing professional liability insurance to protect clients. All of these expenses must be covered by the hourly fees charged, plus an allowance for uncollectible fees.

The current hourly rates charged by the Firm are:

Shareholder:

William F. Davis	\$375.00 per hour
	\$325.00 per hour (Debtor/UCC work)

Associates:

Andrea DS Woody	\$250.00 per hour
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Nephi D. Hardman	\$225.00 per hour
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Christopher D. Dvorak	\$200.00 per hour
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Paralegals:

Paralegal	\$105.00 per hour
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The Firm may employ additional attorneys who may work on your matter at their standard billable rates established by the Firm.

The Firm reserves the right to change its rates at any time. You will be notified in advance of any changes in rates. The hourly charges for services will be billed to you at the rates in effect at the time that the services are actually performed. Paralegal hourly rates will be charged at time and a half for services performed on weekends or legal holidays. You agree, by your signature below, to keep your bill paid current each month.

The fees quoted do not include New Mexico gross receipts tax, which will be added to your bill. In addition, you will be billed for out-of-pocket expenses which the Firm pays on your behalf, such as postage, photocopying, long distance telephone, conference call charges, bank wire transfer fees, court costs, filing fees, witness fees, deposition charges, out-of-town travel and mileage at the rate of \$.56 cents per mile which may be adjusted periodically to match the Internal Revenue Service rate, and contract services such as process servers and couriers. Fees remaining unpaid at the close of any billing cycle will incur a 1% per month (12% APR) interest charge.

Electronic filing will be billed at the normal hourly rate for the individual doing the electronic filing (i.e. \$105.00 per hour for Paralegal).

4. FEE ARRANGEMENT:

The Firm and the client agree that the services to be performed for the client will be charged to the client on the following basis:

A. X Hourly rates, subject to adjustment.

5. PAYMENT OF FEES:

If you have been quoted a flat fee, the entire fee, plus tax and a deposit for costs, is due before the work is undertaken. If you are being charged an hourly fee, the Firm requires a retainer in the amount set forth above before any work is begun. The retainer will be placed in a trust account, and the Firm will deduct its fees from time to time as services are rendered. When the retainer has been depleted, you will be asked for an additional deposit. The Firm sends statements monthly to clients. If you have a retainer in trust, the monthly statement will show what has been deducted from your retainer. If you do not have a retainer in trust, then all statements are due in full upon receipt. If you do not pay before the next billing cycle, your account becomes delinquent and begins to incur 1% per month interest charges. Unless satisfactory arrangements are made with the Firm for installment payment of fees, the Firm reserves the right to cease work on behalf of any client with a delinquent account. If you do not pay your fees pursuant to the terms of this retainer agreement, the Firm will withdraw from your case. Unless we have a written arrangement with you for the payment of fees in installments, you agree that we may withdraw from representing you, and consent to our withdrawal as your attorney from any litigation, if your account becomes delinquent.

A \$35.00 fee will apply to all returned checks.

The law Firm of WILLIAM F. DAVIS & ASSOC., P.C. specifically reserves a contractual right to enforce an attorney's charging lien against any client's judgment, award, or recovery. The attorney's charging lien, pursuant to this retainer agreement, will take priority over any other set-off of judgment. A trial court, in any preference or set-off action, may allow preference to the charging lien specified in this retainer agreement.

6. FEE DISPUTES:

You may consult with us at any time about the fees being charged to you, and you will not be charged for the time spent discussing the fees. If you have a dispute about a fee or charge, you must notify the Firm in writing within 30 days of the date of the statement which first discloses that charge or fee; if you do not object in writing, then all charges will be presumed correct. If you do dispute a fee or charge, the Firm will review the charge or fee and respond to you in writing within 30 days of the receipt of your objection. Any unresolved fee disputes will be submitted to the Arbitration Committee of the State Bar of New Mexico, and the client and the Firm will be bound by the results of such arbitration.

7. COMMENCEMENT OF REPRESENTATION:

The Firm does not become your attorney until you have read and signed this agreement, any initial retainer deposit or flat fee has been paid, and the Firm has given you a signed copy of this retainer agreement.

8. TERMINATION OF REPRESENTATION:

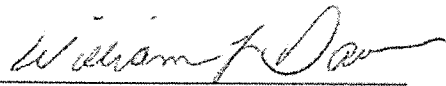
Either the Firm or the client may terminate this agreement at any time. When the agreement is terminated, all unpaid fees and expenses become immediately due and payable, even if we have previously agreed to an installment fee arrangement. The Firm will retain possession of all client records, papers, pleadings or other property in its possession until all fees and expenses due are paid in full. When all fees and expenses are paid in full, the client may have all client property in the Firm's possession. The files, papers and pleadings created by the Firm in the course of representing the client are not client property, but belong to the Firm. The client is entitled to have copies made of any court papers, pleadings, or public records in the Firm's file.

9. RETAINER:


Prior to undertaking any work on behalf of client, the Firm requires the payment of an initial retainer in the amount of \$20,000.00, receipt of which is hereby acknowledged. The Client acknowledges that the remainder of the retainer as set forth above in Paragraph 4 must be paid prior to filing any court actions, petitions or other documents.

WILLIAM F. DAVIS & ASSOC., P.C.

HARPOLE CONSTRUCTION, INC.



William F. Davis, Esq.

By: 

Jerry Harpole, President

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